

*Washington, DC* - Deeply concerned about a recent study that showed a wide array of frozen food products and fast food restaurant meals with labels that misrepresented their true nutritional content, Congressman Maurice Hinchey (D-NY) today called upon the U.S. Food and Drug Administration (FDA) to conduct a thorough review of the ways it regulates and monitors nutritional labeling.

In a letter to FDA Commissioner Margaret A. Hamburg, Hinchey laid out a series of questions over a recent study by the Energy Metabolism Laboratory at Tufts University that highlighted 20 year-old rules, which often go unenforced, that allow companies and fast food chains to exceed their stated nutritional content by as much as 20 percent and does not require public disclosure of such variances. The article also highlighted a series of cases in which the actual calorie content of some frozen meals and products exceeded their listed calorie content by as much as 200 percent.

"The American people have the right to know exactly what they are eating and what the true nutritional value is for packaged food products and fast food meals," said Hinchey, who is a member of the House Appropriations Subcommittee on Agriculture, which oversees the FDA's budget. "Nutritional labels on frozen foods and fast food meals are virtually useless if they are off by 20 percent or more. The public shouldn't have to guess the nutritional value of what they are eating when they purchase these meals. In a society that is plagued by obesity, it's incumbent upon packaged food companies and fast food chain restaurants to end these misleading practices and accurately report nutritional information. The FDA needs to conduct a thorough review of its own policies and practices on this matter in order to protect public health. I'm hopeful that the FDA will act swiftly, but if not, I'm prepared to introduce legislation that would revamp the entire system and require accurate nutritional information to be labeled and posted."

The full text of Hinchey's letter to Commissioner Hamburg follows:

February 24, 2010

Margaret A. Hamburg, M.D., Commissioner

Food and Drug Administration

U.S. Department of Health and Human Services

15B-31 Park Lawn Building

5600 Fishers Lane

Rockville, MD 20857

Dear Commissioner Hamburg:

As a longtime critic of the Food and Drug Administration's (FDA) policies under the previous administration, I am very encouraged by the focus that the agency has shown since President Obama took office to fully enforce our nation's food and drug laws and to protect the public health. With that in mind, I write to bring to your attention a recent study by the Energy Metabolism Laboratory at Tufts University, which found that several frozen food products and fast-food restaurant meals were labeled with inaccurate nutritional information. This is a very troubling assertion and I respectfully request that the FDA examine the validity of the study. I also request that the FDA review its nutritional reporting requirements and report to Congress regarding their effectiveness.

As you know, Congress passed a landmark law in 1990 that requires food manufacturers to list nutritional information on food products so that Americans can make informed decisions about the food they consume. Nutritional labeling is now commonplace. Millions of people rely on it to regulate their diets and most Americans believe that the nutritional information found on food products is accurate.

However, this consumer confidence may now be misplaced. The FDA allows food manufacturers a 20 percent margin of error in determining the accuracy of nutritional

information found on product labels. In my opinion, this flexibility seems excessive and would come as a surprise to most consumers since it is not listed on any nutritional label. What is more troubling is that the study found that some of the products in question exceeded the 20 percent margin of error and did not reflect the actual nutritional content. For instance, after correcting for energy losses before energy is available to the body, the Tufts University study noted that a Lean Cuisine frozen meal which was listed as having a 250 Calories, actually contained 319 Calories, a 28 percent difference. Another example contained in the article was a serving of grits at a Denny's restaurant that was listed as containing 86 Calories, but when checked, actually contained 258 Calories, a 200 percent difference.

There were examples of food products undercounting calories as well. My concern is simple: consumers deserve nutritional information that is accurate. Although the Tufts University study did not note discrepancies among other nutritional categories such as fats and cholesterol, the fact that the products in question had inaccurate caloric listings throws into doubt the accuracy of these other categories. Furthermore, although there is no excuse for violating federal nutritional labeling standards, I believe that the FDA's allowable margin of error may be too high and is not providing an incentive for food after analyzing vendor stated nutritional data as opposed to actual amounts manufacturers to determine and report accurate information. Beyond that, these regulations are almost 20 years old and given the advances made in food science during that time it seems reasonable to believe that the technology and techniques used to determine nutritional content in food have improved considerably.

Therefore, I respectfully request that:

The FDA examine the labeling discrepancies found in the Tufts University study and determine if corrective action is warranted.

The FDA conduct a comprehensive review of its nutritional labeling standards and enforcement policies, including its 20 percent allowable margin of error, to determine whether they are appropriate and effective in promoting accurate reporting.

While the FDA is conducting this review, the agency should also consider taking action to require food manufacturers to disclose the allowable margin of error on all nutritional labels.

I realize these are policies that the FDA inherited from previous administrations. However, I believe this is an issue that merits more attention and I hope that we can work together to improve our country's nutritional labeling system. I appreciate your consideration of my requests and look forward to hearing from you.

Sincerely,

Maurice Hinchey